Court Asked to Accept Brief On Cover-Up Case Vote Leak

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Associated Press

Lawyer's for former Attorney General John N. Mitchell and ex-White House aides H. R. Haldeman and John D. Ehnlichman asked the Supreme Court yesterday to give them 10 days to explain what impact a news leak has had on the three Watergate cover-up appeals.

In a one-paragrah request to file additional briefs in the case, attorneys for the three officials of President Nixon's administration said the additional information would look at "the impact on petitioners' rights before this court of the publicly disclosed circumstances involving the consideration [of the appeals]."

National Public Radio last Thursday reported that the Court had voted 5 to 3 to deny the appeals of the three men.

Quoting unnamed court sources, NPR said Chief Justice Warren E. Burger was delaying announcement of the court's vote in an attempt to persuade at least one more justice to vote to hear arguments in the case.

It takes four votes for the court to decide to hear arguments.

The report said three justices, Burger and fellow Nixon appointees Lewis F. Powell Jr. and Harry A. Blackmun, had voted to hear arguments. The fourth Nixon appointee, William H. Rehnquist, disqualified himself from considering the case, the report said.

The court has not commented on the NPR report, but other news agencies have confirmed the essence of that report.

Leaks about what is discussed during the justices' closed sessions are extremely rare, and the NPR report is believed to represent the first time a final determination of a case by the court was reported before being officially announced.

Mitchell, Haldeman and Ehrlichman were convicted of conspiracy, obstruction of justice and giving false testimony under oath in what prosecutors said was an attempt to conceal information about the Watergate scandals.

All three were sentenced to 30 months to eight years in prison.

Ehrlichman has begun serving a prison term, but Mitchell and Haldeman have remained free pending appeal.

If the Supreme Court denies their appeal, Mitchell and Haldeman likely would be imprisoned soon thereafter.

The original appeal to the high court was based in part on the claim that prejudicial publicity about the case kept the three defendants from getting a fair trial—the same claim the attorneys wish to pursue in the new briefs.

Attorneys for the three told the court that they would, if allowed, submit the additional brief no later than May 7.

The request with the court, which probably will be approved or denied before the weekend, was submitted by three Washington lawyers.

They are Stuart Stiller, representing Ehrlichman; John J. Wilson, representing Haldeman, and Eugene Gressman, representing Mitchell.